

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****D. Remarks****Rejection of Claims 3 and 7 Under 35 U.S.C. §112, First Paragraph.**

Claims 3 and 7 are believed to be enabled by the Specification. First, it is believed that one skilled in the art would understand the term "token(s) over Ethernet". Second, the technology is described in the Specification. In particular, the use of Ethernet tokens is described with respect to VDM devices.<sup>1</sup> In addition, Applicant submits herewith, in Appendix A, a definition for "token".

**Rejection of Claims 1-2 and 45 Under 35 U.S.C. §102(b) based on U.S. Patent No. U.S. Patent No. 5,742,596 (*Baratz et al.*)**

The invention of claim 1 is directed to a voice and data network that includes a telephone and a computer connected to a voice and data module (VDM), and a plurality of VDMs connected to a plurality of telephone wires in a building, where the telephone wires connected together provide a telephone network. The voice and data network also includes a link to wide area network (LTW) that connects the telephone network to a Public Service Telephone Network (PSTN) and an Internet Service Provider (ISP). The LTW and VDM devices communicate together over said telephone network using communication addresses assigned to the LTW and each of the VDM devices.

Thus, the invention of claim 1 is directed to an arrangement in which VDM devices are connected by telephone wires that form a telephone network. Such a limitation is not shown in the cited reference *Baratz et al.*

*Baratz et al.* shows network based distributed public branch exchange system (PBX). In the system of *Baratz et al.*, network interface cards (NICs) are connected to one another by a network 37. However, such a network is never shown or suggested to be formed of telephone lines that connected together form a telephone network, as recited in claim 1. This difference is best understood by the following:

System 10 also supports regular telephone sets 42... telephone 42 is coupled directly to a remote subscriber interface module 172... independent of network

<sup>1</sup> See Applicant's Specification, Page 11, Lines 19-22.

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37... Depending on the type of LAN cabling installed, it might be possible to piggy back line 47 onto an unused pair within the LAN cabling. For example, when using 4 pair cable to wire an Ethernet LAN, two spare pairs are available. These spare pairs may be used to connect the telephone sets that are not connected to a host computer.<sup>2</sup>

From the above, it is clear that *Baratz et al.* teaches a network 37 formed of a LAN cabling. Thus, the reference teaches a data network adapted to accommodate voice data. This is essentially the opposite of Applicant's invention of claim 1, which utilizes an existing telephone network for a voice and data network.

Accordingly, because the cited reference does not show all limitations of claim 1, this ground of rejection is traversed.

Rejection of Claims 6 and 8-10 Under 35 U.S.C. §103(a) based on *Baratz et al.*

The invention of claim 6 is directed to a method for communicating between network elements in a voice and data network. The method includes monitoring a communication network by a first voice and data module (VDM) for a call from a second VDM and a call from a link to a wide area network (LTW) connected to said communication network, monitoring a first phone and a first computer attached to said first VDM for an outgoing call to a destination containing a second phone and a second computer connected to said second VDM, or an outside phone and an outside computer network through said LTW. The method also includes detecting and connecting an outgoing call, detecting and connecting an incoming call, and disconnecting phone calls.

Thus, the present invention recites monitoring a communication network by a first VDM.

As is well known, to establish a prima facie case of obviousness, a rejection must meet three basic criteria. First, there must be some suggestion or motivation to modify a reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference(s) must teach or suggest all claim limitations.

*Baratz et al.* does not show a monitoring of a communication network by a first VDM, as recited in claim 6, nor is such a limitation suggested by the reference. The network based PBX

<sup>2</sup> *Baratz et al.*, Col. 5, Lines 18-30.

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system of *Baratz et al.* teaches host computers that include telephony client modules (TCMs) and network interface cards (NICs)<sup>3</sup> (argued to correspond to Applicant's VDM). However, these items do not perform call monitoring, as such functions are reserved only for a dedicated telephony server:

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[I]nternal calls made from one extension to another extension involve the telephony server only for the call setup, status monitoring and tear down of the call.<sup>4</sup>

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Thus, the reference does not show call monitoring by host computer components (e.g., TCM/NICs), but rather by an entirely different part of the system, the telephony server. Further, because *Baratz et al.* teaches monitoring for multiple nodes at a unique network location (the telephony server), it is believed to teach away from Applicant's approach of monitoring by one of multiple common network locations (e.g., Applicant's VDM).

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Accordingly, because the cited reference does not show or suggest all limitations of claim 6, a prima facie case of obviousness has not been established, and this ground for rejection is traversed.

The present claims 1-10 are believed to be in allowable form. It is respectfully requested that the application be forwarded for allowance and issue.

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<sup>3</sup> See *Baratz et al.*, FIG. 1, which shows host computers 40 with TCMs 174 and NICs 43.

<sup>4</sup> *Baratz et al.*, Col. 5, Lines 63-66, emphasis added.